

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 2166 – HB 2469

March 12, 2018

**SUMMARY OF ORIGINAL BILL:** Requires a preferred service employee to be reinstated if the commissioner of the appointing authority does not issue a decision within 15 days in a Step I appeal or if the Commissioner of the Department of Human Resources (“Human Resources”) does not issue a decision within 30 days in a Step II appeal.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (014933):** Deletes all language after the enacting clause. Requires the appointing authority or its designee, in a Step I appeal, and the Commissioner of Human Resources, in a Step II appeal, to provide the employee with any and all documents or other evidence in their possession prior to the meetings on the matter, except that documents or evidence that is part of an active criminal investigation or prosecution by any law enforcement agency need not be provided, but must be made available to the employee for inspection during the meeting if such document or evidence will be relied upon by the appointing authority or the Commissioner. Requires the appointing authority and the Commissioner of Human Resources to make all reasonable efforts to gather all relevant documents and evidence germane to the meeting prior to conducting the meeting.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Public Chapter 800 of the Public Acts of 2012, known as the TEAM Act, established an appeal procedure under Tenn. Code Ann. § 8-30-318 for a preferred service employee to challenge the application of law, rule, or policy to a dismissal, demotion, or suspension of the employee.
- The procedure includes three steps: (1) in Step I, the employee appeals to the appointing authority, i.e., the department or agency that appointed the employee to preferred

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service; (2) in Step II, the employee appeals to the Commissioner of Human Resources; and (3) in Step III, the employee appeals to the Board of Appeals.

- The proposed legislation requires the appointing authority or its designee, in a Step I appeal, to provide the employee with any and all documents or other evidence in the possession of the appointing authority or its designee prior to the meeting on the matter. The appointing authority need not provide a document or evidence to the employee if the document or evidence is part of an active criminal investigation or prosecution by any law enforcement agency, but the appointing authority must make the document or evidence available to the employee during the meeting if such document or evidence will be relied upon by the appointing authority.
- The proposed legislation requires the Commissioner of Human Resources, in a Step II appeal, to provide the employee with any and all documents or other evidence in the appointing authority's possession prior to the meeting on the matter. The Commissioner of Human Resources need not provide a document or evidence to the employee if the document or evidence is part of an active criminal investigation or prosecution by any law enforcement agency, but the Commissioner of Human Resources must make the document or evidence available to the employee during the meeting if such document or evidence will be relied upon by the appointing authority.
- Information not provided to the employee cannot be considered for purposes of issuing a decision.
- The proposed legislation provides an employee subject to a suspension, termination, or disciplinary action with the same information as is possessed by the state. The proposed legislation will not significantly impact the policies or operations of state departments or agencies.
- The proposed legislation requires the appointing authority and the Commissioner of Human Resources to make all reasonable efforts to gather all relevant documents and evidence germane to the meeting prior to conducting the meeting.
- It is assumed that the departments and the Commissioner of Human Resources currently make all reasonable efforts to collect relevant evidence prior to a suspension, termination, or disciplinary action.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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